

Federico C. Sayre, SBN 067420
 Kent M. Henderson, Esq., SBN 139530
 LAW OFFICES OF FEDERICO CASTELAN SAYRE
 900 N. Broadway, 4th Floor
 Santa Ana, California 92701
 Telephone: (714) 550-9117
 Facsimile: (714) 550 9125
 Attorneys for Plaintiffs

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 CLERK OF DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 SANTA ANA, CALIF.

FILED

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF JUAN H. CARRASCO
 by and through its successor in
 interest and representative, TERESA
 TORRES; TERESA TORRES;
 LEILEEN CARRASCO, JUAN H.
 CARRASCO, JR., STARLEEN
 CARRASCO, minors by and through
 their Guardian ad Litem, TERESA
 TORRES,

Plaintiffs,

vs.

THE CITY OF SANTA ANA; THE
 SANTA ANA POLICE
 DEPARTMENT; UNIDENTIFIED
 CITY OF SANTA ANA POLICE
 OFFICERS; and DOES 1-10,

Defendants.

CASE NO: SACV08-00981 JVS (RNBx)

PLAINTIFFS' COMPLAINT FOR
 DAMAGES OF FEDERAL CIVIL
 RIGHTS VIOLATIONS (42 USC §
 1983)

[DEMAND FOR JURY TRIAL]

1 COMES NOW PLAINTIFFS, THE ESTATE OF JUAN H. CARRASCO
2 by and through its successor in interest and representative, Teresa Torres, et. al
3 and alleges as follows:

4 5 INTRODUCTION

6 1. This is an action for money damages brought pursuant to 42 U.S.C. §
7 1983, and the Fourth, Eighth and Fourteenth Amendments of the United States
8 Constitution against Defendants, CITY OF SANTA ANA, CITY OF SANTA
9 ANA POLICE DEPARTMENT; UNIDENTIFIED CITY OF SANTA ANA
10 POLICE OFFICERS, and DOES 1-10. Jurisdiction is founded on the basis of 28
11 U.S.C. §§1331 and 1343 and on the supplemental jurisdiction of this Court to
12 entertain claims arising under state law. Venue is proper in the Central District of
13 California, Santa Ana, because the herein described incident took place in or
14 about Bishop Street Cedar Street in the City of Santa Ana, California.

15 2. It is herein alleged that Defendants UNIDENTIFIED SANTA ANA
16 POLICE OFFICERS and/or other officers or individuals employed by Defendants
17 shot and killed decedent, JUAN H. CARRASCO without legal cause or excuse,
18 made an unreasonable seizure of the person of Mr. Carrasco, violating his rights
19 under the Fourth and Fourteenth Amendments to the United States Constitution,
20 and subjected him to summary, cruel and unusual punishment in violation of the
21 Eighth Amendment.

22 JURISDICTION

23 3. Plaintiffs, THE ESTATE OF JUAN H. CARRASCO by and through
24 its successor in interest and representative, TERESA TORRES; TERESA
25 TORRES; LEILEEN CARRASCO, JUAN H. CARRASCO, STARLEEN
26 CARRASCO, minors by and through their Guardian ad Litem, TERESA
27 TORRES, Claims for Relief arise under and violate the following laws:

28 (a) Federal Civil Rights Act under 42 U.S.C. §§ 1983, 1985,

1 1986, and 1988;

2 (b) Monell v. Department of Social Services

3 (c) The Fourth Amendment of the United States Constitution;

4 (d) The Eighth Amendment to the United States Constitution;

5 (e) Equal Protection Clause and Due Process Clause of the Fifth
6 Amendment of the United States Constitution;

7 4. The jurisdiction of this court is, therefore, founded on Federal
8 Question Jurisdiction pursuant to 28 U.S.C. §1331.

9 **VENUE**

10 5. Venue is proper in the Central District Court of California in that all
11 injuries complained of herein were caused and suffered in the County of Orange,
12 State of California, as more fully set forth herein. Defendants are properly before
13 this Court because "a substantial part of the events upon which this action is
14 based occurred in this district." 28 U.S.C. §1891(a)(2) and §1343. The shooting
15 took place near Bishop Street and Cedar Street, Santa Ana, County of Orange,
16 California.

17 **PARTIES**

18 6. Plaintiff, THE ESTATE OF JUAN H. CARRASCO, appears by and
19 through its successor in interest and representative, TERESA TORRES, Teresa
20 Torres is the surviving wife of decedent JUAN H. CARRASCO. Decedent,
21 JUAN H. CARRASCO, was a resident of Orange County, California during all
22 times relevant hereto.

23 7. Plaintiff, TERESA TORRES is the surviving wife and heir at law of
24 JUAN CARRASCO, deceased, and therefore is entitled under Section 377.30 and
25 377.60 of the California Code of Civil Procedure to bring and maintain the
26 present actions for herself individually and as successor in interest to the estate of
27 decedent JUAN H. CARRASCO including those for the violation of decedent's
28

1 civil rights for relief enumerated herein. At all times herein mentioned Plaintiff
2 TERESA TORRES was a resident of the County of Orange, State of California.

3 8. Plaintiff, LEILEEN CARRASCO is the surviving daughter and heir
4 at law of JUAN H. CARRASCO, deceased, and therefore is entitled under
5 Section 377.30 and 377.60 of the California Code of Civil Procedure to bring and
6 maintain the present actions for herself individually and as successor in interest to
7 the estate of decedent JUAN H. CARRASCO including those for the violation of
8 decedent's civil rights and for the state law claims for relief enumerated herein.
9 Plaintiff LEILEEN CARRASCO is a two year old having been born on July 19,
10 2006. Plaintiff LEILEEN CARRASCO is the natural daughter of decedent
11 JUAN H. CARRASCO and she is the natural daughter of Plaintiff TERESA
12 TORRES. Plaintiff LEILEEN CARRASCO, a minor, appears in this action by
13 and through her Guardian ad Litem and natural mother, Plaintiff TERESA
14 TORRES. At all times herein mentioned Plaintiff LEILEEN CARRASCO was a
15 resident of the County of Orange, State of California.

16 9. Plaintiff, JUAN H. CARRASCO, JR. is the surviving son and heir at
17 law of JUAN CARRASCO, deceased, and therefore is entitled under Section
18 377.30 and 377.60 of the California Code of Civil Procedure to bring and
19 maintain the present actions for herself individually and as successor in interest to
20 the estate of decedent JUAN H. CARRASCO including those for the violation of
21 decedent's civil rights and for the state law claims for relief enumerated herein.
22 Plaintiff JUAN H. CARRASCO, JR. is a four year old having been born on April
23 5, 2004. Plaintiff JUAN H. CARRASCO, JR. is the natural son of decedent
24 JUAN H. CARRASCO and he is the natural son of Plaintiff TERESA TORRES.
25 Plaintiff JUAN H. CARRASCO, JR., a minor, appears in this action by and
26 through his Guardian ad Litem and natural mother, Plaintiff TERESA TORRES.
27 At all times herein mentioned Plaintiff JUAN H. CARRASCO, JR. was a resident
28 of the County of Orange, State of California.

1 10. Plaintiff, STARLEEN CARRASCO is the surviving daughter and
2 heir at law of JUAN CARRASCO, deceased, and therefore is entitled under
3 Section 377.30 and 377.60 of the California Code of Civil Procedure to bring and
4 maintain the present actions for herself individually and as successor in interest to
5 the estate of decedent JUAN H. CARRASCO including those for the violation of
6 decedent's civil rights and for the state law claims for relief enumerated herein.
7 Plaintiff STARLEEN CARRASCO is a nine year old having been born on April
8 16, 1999. Plaintiff STARLEEN CARRASCO is the natural daughter of decedent
9 JUAN H. CARRASCO and she is the natural daughter of Plaintiff TERESA
10 TORRES. Plaintiff STARLEEN CARRASCO, a minor, appears in this action by
11 and through her Guardian ad Litem and natural mother, Plaintiff TERESA
12 TORRES. At all times herein mentioned Plaintiff STARLEEN CARRASCO was
13 a resident of the County of Orange, State of California.

14 11. At all times mentioned herein, Defendant CITY OF SANTA ANA
15 (hereinafter sometimes "CITY") is and was a public entity, duly organized and
16 existing under and by virtue of the laws of the State of California.

17 12. At all times mentioned herein, Defendant SANTA ANA POLICE
18 DEPARTMENT (hereinafter referred to as sometimes "SAPD") is and was a
19 public agency duly organized and existing under and by the laws of the State of
20 California and/or was a department of defendant CITY. Plaintiff is informed and
21 believes and thereon alleges that defendant CITY and/or SAPD was the employer
22 of THE UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and
23 DOE Defendants.

24 13. At all times relevant hereto, all UNIDENTIFIED CITY OF SANTA
25 ANA POLICE OFFICER Defendants, and DOE Defendants, and each of them,
26 were acting within the course and scope of their employment as officers,
27 sergeants, captains, commanders, and/or civilian employees of SAPD, a
28 department and/or a subdivision of defendant CITY and at all times were acting

1 with permission and consent of their co-defendants. Said defendants, and each of
2 them, were specifically authorized by defendant CITY and/or the SAPD to
3 perform the duties and responsibilities of sworn police officers of and for the
4 CITY, and all acts hereinafter complained of were performed by them within the
5 course and scope of their duties as police officers and officials for said defendant,
6 and its police department, and are herein sued in their individual capacities and in
7 their official capacities as police officers, sergeants, captains, commanders,
8 supervisors, policy makers and/or as other employees of the SAPD. Said
9 defendants, and each of them, at all times relevant hereto, were acting under color
10 of law, to wit, under the color of the statutes, ordinances, regulations, policies,
11 customs, practices and usages of defendant CITY, and/or its police department.

12 14. Defendants CITY and/or SAPD encouraged, assisted, ratified and/or
13 with deliberate indifference failed to prevent all of the herein acts and omissions
14 of defendants, and each of them.

15 15. Plaintiffs are ignorant of the true names and capacities of defendants
16 sued herein as UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS
17 and as DOES 1-10, inclusive, and therefore sues these defendants by such
18 fictitious names. Plaintiffs will amend this complaint to allege said defendants'
19 true names and capacities when such are ascertained. Plaintiffs are informed and
20 believe and thereon allege that each of the fictitiously named defendants are
21 responsible in some manner for the occurrences herein alleged, and that
22 PLAINTIFFS' damages as herein alleged were proximately caused by the acts
23 and/or omissions of said fictitiously name defendants.

24 16. At all times relevant herein, Defendant DOES 1 through 10 were
25 supervisors, employees and/or policy makers for defendant CITY and/or SAPD,
26 which employed unlawful, organized and illegal customs and practices of
27 excessive force, false arrests which lacked probable cause. Said misconduct was
28 encouraged, tolerated and condoned by defendants, and each of them.

1 17. At all times relevant to the present complaint, Defendants
 2 UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and DOES 1-10,
 3 inclusive, were acting within their capacity as employees, agents, representatives
 4 and servants of defendants CITY and/or SAPD which are liable under the
 5 doctrine of *respondeat superior*, pursuant to §815.2 of the California Government
 6 Code, et al.

7 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

8 18. On August 5, 2008, in the evening, decedent JUAN H. CARRASCO
 9 was lawfully walking in the area of Bishop Street and Cedar Street in the City of
 10 Santa Ana, County of Orange, State of California.

11 19. On August 5, 2008, JUAN H. CARRASCO was not engaged in the
 12 commission of any crime and under the United States Constitution and the cases
 13 interpreting it including a right of assembly, a right of freedom of travel, and a
 14 liberty interest to be free in one's person from unlawful search and seizure of
 15 one's person, he had the right to be walking in the area of Bishop Street and
 16 Cedar Street in the City of Santa Ana. Based on information and belief,
 17 Defendants UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and
 18 DOES 1-10, arrived at a location near Bishop Street and Cedar Street in the City
 19 of Santa Ana to investigate an incident that did not involve decedent JUAN H.
 20 CARRASCO.

21 20. Based upon information and belief, once the UNIDENTIFIED CITY
 22 OF SANTA ANA POLICE OFFICERS had determined that there was no
 23 reasonable suspicion of wrongdoing and probable cause in regards to the incident
 24 that they had come to investigate, the UNIDENTIFIED CITY OF SANTA ANA
 25 POLICE OFFICERS and DOES 1-10, within the course and scope of their
 26 employment, and while acting under color of law, without reasonable suspicion of
 27 wrongdoing and without probable cause focused their attention on decedent
 28 JUAN H. CARRASCO who was at a distance down the street but who,

1 unfortunately, was walking in an area where he was observed by the Defendants
2 UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and DOES 1-10.
3 Based upon information and belief, Plaintiffs allege that on August 5, 2008, in the
4 evening, the Defendants UNIDENTIFIED CITY OF SANTA ANA POLICE
5 OFFICERS and DOES 1-10, while acting within the course and scope of their
6 employment and under color of State law approached decedent JUAN H.
7 CARRASCO, and without reasonable suspicion of wrongdoing, conducted a pat
8 down of him which disclosed no weapons of any kind and then, without
9 reasonable suspicion of wrongdoing and without any further probable cause,
10 Defendants UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and
11 DOES 1-10, while acting within the course and scope of their employment with
12 Defendants CITY and SAPD, detained, and arrested decedent JUAN H.
13 CARRASCO which was a violation of his Fourth Amendment rights to be free
14 from unreasonable search and seizure as he had no weapons on him, he had
15 committed no crimes and there was no reason for him to not be able to be free
16 from being detained.

17 21. On August 5, 2008, in the evening hours, near Bishop Street and
18 Cedar Street in the City of Santa Ana, State of California Defendants
19 UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and DOES 1-10,
20 inclusive, while acting within the course and scope of their employment with
21 CITY and SAPD and under color of State law then proceeded to shoot and kill
22 decedent JUAN H. CASSASCO without probable cause, justification, or excuse.
23 At the time that the aforementioned Defendants shot and killed JUAN H.
24 CARRASCO in a situation in which to an objective, reasonable police officer, he
25 did not represent a threat to their lives or to the lives of others. Defendants
26 UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and DOES 1-10,
27 while acting within the course and scope of their employment with CITY and
28 SAPD and while acting under color of law, shot and killed decedent JUAN H.

1 CARRASCO on August 5, 2008, while decedent JUAN H. CARRASCO had no
2 weapon of any kind. Plaintiffs are informed and believe and thereon allege that
3 Defendants UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and
4 DOES 1-10, while acting within the course and scope of their employment with
5 Defendants CITY and SAPD and while acting under color of law, did not utilize
6 any types of intermediate levels of force, but rather, simply sought to take
7 someone who was walking around the area unarmed into custody and then, while
8 taking the unarmed person into custody, who never needed to be taken into
9 custody in the first place, they shot and killed him. Plaintiffs are informed and
10 believe and thereon allege that Defendants UNIDENTIFIED CITY OF SANTA
11 ANA POLICE OFFICERS and DOES 1-10, while acting within the course and
12 scope of their employment and while acting under color of law, shot decedent
13 JUAN H. CARRASCO, who at all times was unarmed, multiple times and then,
14 while decedent JUAN H. CARRASCO was crawling on his hands and knees after
15 being wounded, Defendants UNIDENTIFIED CITY OF SANTA ANA POLICE
16 OFFICERS and DOES 1-10, acting within the course and scope of their
17 employment with Defendants CITY and SAPD and while acting under color of
18 law, shot decedent JUAN H. CARRASCO again while he crawled along the
19 ground wounded still with no weapons of any kind. This caused his untimely
20 death.

21 22. JUAN H. CARRASCO constituted no threat to the officers or others,
22 and although there was no legal cause or excuse to seize the person of the
23 decedent, he was shot to death.

24 23. JUAN H. CARRASCO was engaged in lawful activity. The
25 decedent was approached by UNIDENTIFIED CITY OF SANTA ANA POLICE
26 OFFICERS and/or DOES 1-10 without reason, cause or justification. Defendants
27 thereafter fired upon JUAN H. CASSASCO, causing his death.

1 24. Plaintiff is informed, believes and thereupon alleges that JUAN H.
2 CARRASCO died after suffering great pain and anguish, after he was shot
3 multiple times.

4 25. Decedent was unarmed at all times relevant herein and had not
5 assaulted or threatened the officer(s), nor was he engaged in criminal activity. At
6 no time during the above-described events was JUAN H. CARRASCO armed
7 with any weapon, or a threat to the safety of the officers or others.

8 26. Defendants, and each of them, had no probable cause for his
9 detention or arrest and no legal cause or excuse to seize the person of JUAN H.
10 CARRASCO.

11 27. Defendants, and each of them, discharged their firearm(s)
12 negligently, recklessly, intentionally, tortiously and/or with the intent to kill
13 and/or commit serious bodily injury upon JUAN H. CARRASCO and to violate
14 said decedent's civil rights.

15 28. As a direct and proximate result of the aforementioned acts of
16 Defendants, and each of them, JUAN H. CARRASCO suffered the following
17 injuries and damages which are recoverable by Plaintiffs under the Federal Civil
18 Rights statutes identified herein:

- 19 a. Violation of his constitutional rights under the Fourth,
20 Eighth and Fourteenth Amendments to the United States
21 Constitution to be free from unreasonable search and
22 seizure of his person and summary, cruel and unusual
23 punishment.
- 24 b. Loss of his life;
- 25 c. Conscious physical pain, suffering, and emotional
26 trauma.

27 29. As a direct and proximate result of the actions of Defendants,
28 Plaintiffs suffered the following injuries, including but not limited to:

- a. Loss of love, aid, comfort and society due to the death of Decedent JUAN H. CARRASCO, according to proof;
- b. Loss of economic support of decedent, JUAN H. CARRASCO, and
- c. Funeral and burial expenses according to proof.

30. In contacting, confronting and dealing with the decedent, the UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICER DEFENDANTS and DOES 1-10 employed flawed and substandard tactics. Said tactics were intentional, negligent, reckless and/or otherwise tortious and resulted from the flawed, inadequate and substandard training provided by the SAPD to its officers, supervisors and/or other employees regarding the handling of civilians encountered in the street. Such inadequate training may have left said individuals unprepared for handling such encounters and created a scenario where the subject officers, and/or other defendants improperly used deadly force.

FIRST CLAIM FOR RELIEF

VIOLATION OF CIVIL RIGHTS UNDER COLOR OF LAW (42 USC § 1983).

[By All Plaintiffs Against All Defendants]

31. PLAINTIFFS hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

32. This action is brought pursuant to 42 U.S.C. §1983, and the Fourth and Fourteenth Amendment of the United States Constitution, for violation of the procedural and substantive due process rights of PLAINTIFFS.

33. At the time and place alleged herein, Defendants were present at the immediate scene of the shooting of JUAN H. CARRASCO.

34. At said date and location, said defendants had ample and reasonably sufficient time and opportunity to so intervene and prevent the shooting of JUAN

1 H. CARRASCO. Defendants the UNIDENTIFIED CITY OF SANTA ANA
2 POLICE OFFICERS and DOES 1-10, CITY and SAPD shot and killed decedent
3 JUAN H. CARRASCO in violation of 42 U.S.C. § 1983 and in violation of the
4 Fourth, Fifth, Eighth and Fourteenth Amendments to the United States
5 Constitution. Excessive force was used to kill decedent, while the officers acted
6 under color of law. Decedent was killed by Defendants without justification,
7 cause, or excuse in violation of 42 U.S.C. § 1983.

8 35. At said date and location, said Defendants had ample and reasonably
9 sufficient time and opportunity to so intervene and prevent the shooting and were
10 compelled to do so as peace officers under the laws of the State of California and
11 under the Constitution of the United States of America.

12 36. At said date and location, in deliberate indifference to the life, health
13 and Constitutional rights of JUAN H. CARRASCO decedent, said Defendants
14 intentionally and with deliberate indifference to the civil rights of JUAN H.
15 CARRASCO decedent, refrained from so intervening, in violation of 42 U.S.C.
16 Sections 1985, 1986.

17 37. As a result thereof, said Defendants unlawfully shot JUAN H.
18 CARRASCO decedent in violation of his rights under the Fourth and Fourteenth
19 Amendments of the Constitution of the United States of America.

20 38. The aforementioned acts of Defendants were willful, wanton,
21 malicious, oppressive and shocking to the conscience thereby justifying the
22 awarding of exemplary and punitive damages as to said defendants.

23 39. Defendants CITY and SAPD are liable through application of
24 *respondeat superior* pursuant to section 815.2 of the California Government Code
25 for the acts of its employees named herein who at all times alleged herein were
26 acting in the course and scope of their employment with said public entity.

27 40. As a direct and proximate result of the actions of Defendants,
28 Plaintiffs suffered the following injuries, including but not limited to:

- a. Loss of love, aid, comfort and society due to the death of Decedent JUAN H. CARRASCO, according to proof;
- b. Loss of economic support of decedent, Plaintiff JUAN H. CARRASCO, and
- c. Funeral and burial expenses according to proof.

41. As a direct and proximate result of the aforementioned acts of Defendants, and each of them, JUAN H. CARRASCO suffered the following injuries and damages which are recoverable by Plaintiffs under the Federal Civil Rights statutes identified herein:

- a. Violation of his constitutional rights under the Fourth, Eighth and Fourteenth Amendments to the United States Constitution to be free from unreasonable search and seizure of his person and summary, cruel and unusual punishment.
- b. Loss of his life;
- c. Conscious physical pain, suffering, and emotional trauma.

SECOND CLAIM FOR RELIEF
SUPERVISORIAL RESPONSIBILITY FOR VIOLATIONS FOR THE
FOURTH AND FOURTEENTH AMENDMENT RIGHTS OF
PLAINTIFFS' DECEDENT [By All Plaintiffs Against All Defendants]

42. PLAINTIFFS repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein. PLAINTIFFS are informed and believe and thereon allege that:

43. This action is brought pursuant to 42 U.S.C. §1983, for violation of JUAN CARRASCO's rights under the Fourth and Fourteenth Amendments of the U.S. Constitution.

1 44. On the date of the shooting of JUAN H. CARRASCO,
2 SUPERVISING OFFICER DEFENDANTS DOES 1-10, sued herein in their
3 municipal official and official capacity, SAPD and CITY with supervisory
4 authority over the UNIDENTIFIED CITY OF SANTA ANA POLICE
5 OFFICERS and DOES 1-10 were present at the time and location of the shooting
6 of JUAN H. CARRASCO.

7 45. Plaintiffs are informed and believe and thereon allege that
8 DEFENDANTS participated in, encouraged, condoned and ratified the conduct of
9 DEFENDANTS, in approaching, contacting, seizing or attempting to seize, and
10 shooting JUAN H. CARRASCO.

11 46. SUPERVISING OFFICER DEFENDANTS DOES 1-10 learned of
12 and became aware of the shooting of JUAN H. CARRASCO and conducted an
13 investigation of the shooting by personally evaluating the evidence of the
14 incident, by taking statements from the individuals involved and by conducting a
15 "walk-through" of the incident with the individuals involved, and were aware of
16 the customs, practices, and propensities of their subordinate officers defendants
17 involved in said shooting to use excessive force in violation of P.C. §118.1
18 among other wrong acts. Notwithstanding this, SUPERVISING OFFICER
19 DEFENDANTS DOES 1-10, CITY and SAPD tolerated, encouraged and
20 condoned this misconduct by consciously ignoring, turning a blind eye to and
21 overlooking the misconduct.

22 47. Notwithstanding this knowledge, SUPERVISING OFFICER
23 DEFENDANTS DOES 1-10, CITY and SAPD encouraged and facilitated such
24 conduct and deliberately and leniently overlooked and ratified the misconduct of
25 the UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and DOES 1-
26 10 by failing to discipline said officers, approving false and misleading police
27 reports authored by said officers, and failing to recommend the investigation and
28 criminal prosecution of said officers for the misconduct, and in the present

1 instance failing to supervise and control said defendants, so as to prevent the
2 misconduct alleged herein and by failing to train said subordinate officers in the
3 procedures, laws and practices that would eliminate the risk of the constitutional
4 violations alleged herein.

5 48. By consciously and deliberately overlooking the acts of misconduct
6 and criminal acts by their subordinate officers, SUPERVISING OFFICER
7 DEFENDANTS DOES 1-10, CITY and SAPD established a custom and practice
8 of condoning and ratifying such misconduct and criminal activity, and established
9 a tolerated pattern of constitutional violations amongst their subordinate officers.
10 The condoning of misconduct by SUPERVISING OFFICER DEFENDANTS
11 DOES 1-10, CITY and SAPD was so comprehensive and well known that their
12 subordinate officers were emboldened to blatantly violate the constitutional rights
13 of any persons the subordinate officers came into contact with while on duty and
14 to commit crimes and/or wrongdoing such as the above-mentioned acts and
15 omissions with impunity.

16 49. Through their conscious disregard for the rights of the persons their
17 subordinates would come in contact with and through their custom and practice of
18 encouraging, condoning, tolerating and ratifying constitutional violations and
19 criminal activity by their subordinates, SUPERVISING OFFICER
20 DEFENDANTS DOES 1-10, CITY and SAPD were deliberately indifferent to
21 the constitutional violations being committed by their subordinates, including the
22 UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS and DOES 1-10.

23 50. As a direct and proximate result of the aforementioned acts of
24 Defendants, and each of them, JUAN H. CARRASCO suffered the following
25 injuries and damages which are recoverable by Plaintiffs under the Federal Civil
26 Rights statutes identified herein:

- 27 a. Violation of his constitutional rights under the Fourth,
28 Eighth and Fourteenth Amendments to the United

States Constitution to be free from unreasonable search and seizure of his person and summary, cruel and unusual punishment.

- b. Loss of his life;
- c. Conscious physical pain, suffering, and emotional trauma.

51. As a direct and proximate result of the actions of Defendants, Plaintiffs suffered the following injuries, including but not limited to:

- a. Loss of love, aid, comfort and society due to the death of Decedent Plaintiff JUAN H. CARRASCO, according to proof;
- b. Loss of economic support of decedent, Plaintiff JUAN H. CARRASCO, and
- c. Funeral and burial expenses according to proof.

THIRD CLAIM FOR RELIEF

MUNICIPAL LIABILITY FOR VIOLATION OF CONSTITUTIONAL RIGHTS

[By All Plaintiffs Against All Defendants]

52. PLAINTIFFS hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

53. This action is brought pursuant to 42 U.S.C. §1983, for violation of PLAINTIFFS' rights under the Fourth and Fourteenth Amendments of the U.S. Constitution.

54. JUAN H. CARRASCO possessed the right, guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution, to be free from unreasonable seizures and excessive force by SAPD.

1 55. On said date, UNIDENTIFIED CITY OF SANTA ANA POLICE
2 OFFICER DEFENDANTS and DOES 1-10 and each of them, acting within the
3 course and scope of their duties as peace officers of the CITY, deprived JUAN H.
4 CARRASCO his rights to be free from unreasonable seizures, excessive force,
5 and searches, and to be provided with reasonable medical attention and care,
6 when said defendants unreasonably and without justification shot JUAN H.
7 CARRASCO.

8 56. At the time of these constitutional violations by said
9 DEFENDANTS, SAPD and/or SUPERVISING OFFICER DEFENDANTS had
10 in place, and had ratified policies, procedures, customs and practices which
11 permitted and encouraged their police officers to unjustifiably, unreasonably and
12 in violation of the Fourth and Fourteenth Amendments use deadly force against
13 unarmed suspects. These policies, customs, practices, also called for or permitted
14 the unreasonable or excessive use of force against Hispanic and/or minority
15 suspects.

16 57. Said policies, procedures, customs and practices also called for
17 CITY and the SAPD not to discipline, prosecute, or objectively and/or
18 independently investigate or in any way deal with or respond to known incidents,
19 complaints of excessive force, wrongful shootings of such persons, conduct by
20 officers of the SAPD and for CITY to fail to objectively and/or independently
21 investigate or in any way properly deal with or respond to claims and lawsuits
22 made as a result of such shootings and misconduct.

23 58. Said policies, procedures, customs and practices called for and led to
24 the refusal of said defendants to properly investigate complaints of previous
25 incidents of excessive force, wrongful shootings of such persons and instead,
26 officially claim that such incidents were justified and proper.

27 59. Said policies, procedure customs an practices called for said
28 defendants, and each of them, by means of inaction and cover-up, to encourage an

1 atmosphere of lawlessness within the police department and to encourage their
2 police officers to believe that excessive force against suspects, including members
3 of minority groups, was permissible and to believe that unlawful acts of
4 falsification of evidence and perjury would be overlooked without discipline or
5 other official ramifications.

6 60. Said policies, procedures, customs and practices evidenced a
7 deliberate indifference to the violations of the constitutional rights of the present
8 plaintiffs. This indifference was manifested by the failure to change, correct,
9 revoke, or rescind said policies, procedures, customs and practices in light of
10 prior knowledge by said defendants of their similar incidents.

11 61. Deliberate indifference to the civil rights of minority groups and
12 other victims of the SAPD'S excessive force and officer-involved shootings was
13 also evidenced by defendants' failure to train or retain officers in proper, safe and
14 constitutional requirements regarding the provision of medical services to those
15 persons shot by officers of the SAPD.

16 62. Deliberate indifference to the civil rights of minority groups and
17 other victims of the SAPD'S excessive force and officer-involved shootings was
18 also evidenced by said defendants by their ignoring of the history and pattern of
19 prior civil lawsuits alleging civil rights violations and the related payment of
20 judgments to suspects or the families of suspects.

21 63. Deliberate indifference is also evidenced by maintenance of an
22 inadequate system of use-of-force tracking, government claim/lawsuit tracking,
23 and an independent system of officer discipline and independent and objective
24 investigation by CITY and/or SAPD department which failed to identify and
25 investigate instances of excessive force against suspects, improper use of
26 firearms, falsification of evidence, submission of false police reports and perjury,
27 and by the failure of said defendants to adequately train and more closely
28

1 supervise or retain officers and/or discipline or recommend prosecution of those
2 officers who if fact improperly used excessive force against suspects.

3 64. Based on information and belief other systemic deficiencies of said
4 defendants which indicated and continue to indicate, a deliberate indifference to
5 the violations of the civil rights by the officers of the SAPD include:

6 a) preparation of investigative reports by SAPD officers,
7 sergeants, and other supervisors designated to vindicate the use of
8 force and firearms against suspects regardless of whether such use
9 was justified;

10 b) preparation of investigative reports which uncritically rely
11 solely on the word of SAPD officers involved in the shooting or use
12 of force incidents and which systematically fail to credit testimony
13 by non-officer witnesses;

14 c) preparation of investigative reports which omit factual
15 information and physical evidence which contradicts the accounts of
16 the officers involved;

17 d) issuance of public statements exonerating officers involved in
18 such incidents prior to the completion of investigations of the
19 shootings and/or use of force;

20 e) failure to objectively and independently review investigative
21 reports by responsible superior officers for accuracy or completeness
22 and acceptance of conclusions which are unwarranted by the
23 evidence of the shooting or use of force or which contradicts such
24 evidence; and,

25 f) failure to maintain centralized department-wide systems for
26 the tracking and monitoring of the use of excessive force, citizens'
27 complaints, government tort claims, abuse of authority, and race-
28 based misconduct by individual officers so as to identify those

1 officers who engage in a pattern of excessive force, abuse of police
2 authority and police misconduct.

3 65. Said defendants also maintained a system of grossly inadequate
4 training regarding the use of force and regarding the training for police testimony
5 in trial as well as the collection of evidence, and the preparation of police reports.

6 66. Deliberate indifference to the civil rights of suspects and other
7 victims of the SAPD'S excess force and officer-involved shootings was also
8 evidenced by said SUPERVISING OFFICER DOES 1-10 defendants' failure to
9 implement an officer discipline system which would conduct meaningful and
10 independent investigations of officer shootings and of citizen complaints.

11 67. Deliberate indifference to the civil rights of members of minority
12 groups and other victims of the SAPD'S excessive force and officer-involved
13 shootings was also evidenced by said defendants' implementing a practice and
14 custom with the SAPD of permitting officers of the SAPD to engage in unlawful
15 activities while on duty, including, but not limited to the herein mentioned acts
16 and/or omissions along with other crimes.

17 68. The foregoing acts, omissions, and systemic deficiencies are policies
18 and customs of CITY, SUPERVISING OFFICER DEFENDANTS DOES 1-10
19 and SAPD to be unaware of, or intentionally overlook and ignore, the rules and
20 laws governing the permissible use of force, including the use of force against
21 suspects. The foregoing acts, omissions, and systemic deficiencies are policies
22 and customs of said defendants and such caused, permitted and/or allowed under
23 official sanction DEFENDANTS to believe that their use of firearms and police
24 force against suspects is entirely within the discretion of the officer and that
25 improper and unlawful searches, seizures and use of excessive force, would not
26 be objectively, thoroughly and/or properly investigated, all with the foreseeable
27 result that said defendants' officers would use deadly force in situations where
28 such force is neither necessary, reasonable nor legal, and falsify evidence, submit

1 false and misleading police reports, and commit perjury, and thereby violate the
2 civil rights of the citizens of this state with whom said officers would come into
3 contact.

4 69. As a result of the aforementioned acts, omissions, systematic
5 deficiencies, policies, procedures, customs and practices of said defendants,
6 JUAN H. CARRASCO was unlawfully shot and killed.

7 70. As a direct and proximate result of the aforementioned act alleged
8 herein, JUAN H. CARRASCO suffered gunshot wounds which caused him
9 serious and life-threatening injuries, and/or was denied prompt and necessary
10 medical attention, all of which eventually caused his death.

11 71. As a direct and proximate result of the aforementioned acts of
12 Defendants, and each of them, JUAN H. CARRASCO suffered the following
13 injuries and damages which are recoverable by Plaintiffs under the Federal Civil
14 Rights statutes identified herein:

- 15 a. Violation of his constitutional rights under the Fourth,
16 Eighth and Fourteenth Amendments to the United
17 States Constitution to be free from unreasonable search
18 and seizure of his person and summary, cruel and
19 unusual punishment.
- 20 b. Loss of his life;
- 21 c. Conscious physical pain, suffering, and emotional
22 trauma.

23 72. Defendants CITY and SAPD are liable through application of
24 *respondeat superior* pursuant to section 815.2 of the California Government Code
25 for the acts of its employees named herein who at all times alleged herein were
26 acting in the course and scope of their employment with said public entity.

27 As a direct and proximate result of the actions of Defendants, Plaintiffs suffered
28 the following injuries, including but not limited to:

- a. Loss of love, aid, comfort and society due to the death of Decedent JUAN H. CARRASCO, according to proof;
- b. Loss of economic support of decedent, JUAN H. CARRASCO, and
- c. Funeral and burial expenses according to proof.

FOURTH CLAIM FOR RELIEF

**VIOLATION OF SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE
FOURTEENTH AMENDMENT AS TO ALL DEFENDANTS [By All
Plaintiffs Against All Defendants]**

73. PLAINTIFFS repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

74. As the wife and children of decedent, JUAN H. CARRASCO, had a cognizable interest under the due process clause of the Fourteenth Amendment of the United States Constitution to be free from unwarranted state interference in her familial relationship.

75. As a result of the misconduct, acts, omissions, policies, procedures, customs and patterns of conduct and customs of all the defendants named herein as alleged above, JUAN H. CARRASCO was wrongfully and unlawfully shot and killed.

76. As a direct and proximate result of the aforementioned misconduct, acts, omissions, policies, procedures, customs and patterns of conduct and customs of all the defendants named herein as alleged above of the above-named defendants and each of them, PLAINTIFFS' constitutional rights under the due process clause of the Fourteenth Amendment not be to deprived of the comfort, support, services, companionship and society of their husband and father, JUAN H. CARRASCO by the unwarranted interference in PLAINTIFF'S relationship with him has been violated.

1 77. As a direct and proximate result of the aforementioned misconduct,
 2 acts, omissions, policies, procedures, customs and patterns of conduct and
 3 customs of all the defendants named herein, and each of them, PLAINTIFFS have
 4 suffered extreme and severe mental anguish and pain and has been injured in
 5 mind and body, all to their general damage, which is hereby sought, according to
 6 proof. This, as a result of being deprived of the love, affection, and
 7 companionship of JUAN H. CARRASCO.

8 78. As a direct and proximate result of the aforementioned act alleged
 9 herein, JUAN H. CARRASCO suffered gunshot wounds which caused him
 10 serious and life-threatening injuries, and/or was denied prompt and necessary
 11 medical attention, all of which eventually caused his death.

12 79. As a direct and proximate result of the aforementioned acts of
 13 Defendants, and each of them, JUAN H. CARRASCO suffered the following
 14 injuries and damages which are recoverable by Plaintiffs under the Federal Civil
 15 Rights statutes identified herein:

- 16 a. Violation of his constitutional rights under the Fourth,
 17 Eighth and Fourteenth Amendments to the United
 18 States Constitution to be free from unreasonable search
 19 and seizure of his person and summary, cruel and
 20 unusual punishment.
- 21 b. Loss of his life;
- 22 c. Conscious physical pain, suffering, and emotional
 23 trauma.

24 80. Defendants CITY and SAPD are liable through application of
 25 *respondeat superior* pursuant to section 815.2 of the California Government Code
 26 for the acts of its employees named herein who at all times alleged herein were
 27 acting in the course and scope of their employment with said public entity.

1 As a direct and proximate result of the actions of Defendants, Plaintiffs suffered
2 the following injuries, including but not limited to:

- 3 a. Loss of love, aid, comfort and society due to the death of
4 Decedent Plaintiff JUAN H. CARRASCO, according to
5 proof;
6 b. Loss of economic support of decedent, Plaintiff JUAN H.
7 CARRASCO, and
8 c. Funeral and burial expenses according to proof.

9 **FIFTH CLAIM FOR RELIEF**

10 **CONSPIRACY TO VIOLATE CIVIL RIGHTS 42 U.S.C. SECTIONS**
11 **1985(2), 1985(3) AND 1986 by All Plaintiffs Against All Defendants]**

12 81. PLAINTIFFS repeat, re-allege and incorporate each and every
13 allegation of each and every paragraph above as though fully set forth herein.
14 Plaintiffs are informed and believes and thereon alleges the following:

15 82. This action is brought pursuant to 42 U.S.C. §1983 and §1985 and
16 the Fourth and Fourteenth Amendments of the United States Constitution.

17 83. Commencing on the date of the shooting of JUAN H. CARRASCO
18 and subsequent thereto, in the State of California, County of Orange and City of
19 Santa Ana, and SUPERVISING OFFICER DEFENDANTS DOES 1-10
20 individually and as officer of the SAPD, and each of them, and by reason of
21 animus against minorities, including JUAN H. CARRASCO herein, as members
22 of a discernible and recognized group of persons characterized as
23 Latino/Hispanic, and hatred of same, conspired together and agreed to act in
24 concert to commit an act for the purpose of (i) impeding, hindering, obstructing,
25 and defeating the due course of justice in the State of California and the County
26 of Orange; (ii) to unlawfully arrest, detain, submit JUAN H. CARRASCO; (iii) to
27 deny equal protection of the laws to said persons and JUAN H. CARRASCO; (iv)

1 to subject said persons and JUAN H. CARRASCO to unreasonable seizure in the
2 form of a shooting.

3 84. Said defendants, and each of them, knew the plan along with other
4 co-conspirators purposefully, under color of law, planned and intended to deny
5 JUAN H. CARRASCO the equal protection of the laws and injured plaintiff,
6 JUAN H. CARRASCO in the following respects:

7 a. To deny the right to be free from unreasonable seizures in the
8 form of excessive force;

9 b. To deny the right not to be deprived of liberty without due
10 process of law;

11 c. To deny the right against cruel and unusual punishment,

12 d. To deny the right to be free from unwarranted state
13 interference with one's right to freely associate with others.

14 85. By virtue of the foregoing, two or more of said defendants conspired
15 for the purpose of:

16 a. Depriving him of equal protection of the laws and of equal
17 protection and immunities under the law, and;

18 b. Preventing and hindering the extant authorities, including but
19 not limited to the CITY, SAPD, from giving and securing JUAN H. CARRASCO
20 equal protection of the law and preventing deprivation of liberty and property
21 without due process of law.

22 86. Said Defendants, and each of them, caused to be done, an act or acts
23 in furtherance of the object of conspiracy, as enumerated above herein, whereby
24 JUAN H. CARRASCO was deprived of rights and privileges as set forth above.

25 87. By virtue of the foregoing, said defendants caused injury, damages to
26 PLAINTIFFS in violations of 42 U.S.C. Sections 1985(2), 1985(3), 1985(e) and
27 1986.
28

1 88. Notwithstanding the duties owed to JUAN H. CARRASCO, these
 2 defendants, and each of them, with deliberate indifference to the constitutional
 3 rights of JUAN H. CARRASCO, failed and refused to prevent the wrongs
 4 conspired to be committed against JUAN H. CARRASCO, despite their ability
 5 and duty to do so. The aforementioned acts, omission and conduct of
 6 UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICER DEFENDANTS
 7 and DOES 1-10 and SUPERVISING OFFICER DEFENDANTS was willful,
 8 wanton, malicious and oppressive thereby justifying the warding of exemplary
 9 and punitive damages as to these individual defendants.

10 89. As a direct and proximate result of the aforementioned act alleged
 11 herein, JUAN H. CARRASCO suffered gunshot wounds which caused him
 12 serious and life-threatening injuries, and/or was denied prompt and necessary
 13 medical attention, all of which eventually caused his death.

14 90. As a direct and proximate result of the aforementioned acts of
 15 Defendants, and each of them, JUAN H. CARRASCO suffered the following
 16 injuries and damages which are recoverable by Plaintiffs under the Federal Civil
 17 Rights statutes identified herein:

- 18 a. Violation of his constitutional rights under the Fourth,
 19 Eighth and Fourteenth Amendments to the United
 20 States Constitution to be free from unreasonable search
 21 and seizure of his person and summary, cruel and
 22 unusual punishment.
- 23 b. Loss of his life;
- 24 c. Conscious physical pain, suffering, and emotional
 25 trauma.

26 91. Defendants CITY and SAPD are liable through application of
 27 *respondeat superior* pursuant to section 815.2 of the California Government Code
 28

for the acts of its employees named herein who at all times alleged herein were acting in the course and scope of their employment with said public entity.

As a direct and proximate result of the actions of Defendants, Plaintiffs suffered the following injuries, including but not limited to:

- a. Loss of love, aid, comfort and society due to the death of Decedent JUAN H. CARRASCO, according to proof;
- b. Loss of economic support of decedent, JUAN H. CARRASCO, and
- c. Funeral and burial expenses according to proof.

PRAYER

Wherefore, the Plaintiffs for each and every claim for relief above demands the following relief, jointly and severally, against all the defendants;

(a) Compensatory general and special damages in an amount in accordance with proof which are:

(1.) As a direct and proximate result of the aforementioned acts of Defendants, and each of them, JUAN H. CARRASCO suffered the following injuries and damages which are recoverable by Plaintiffs under the Federal Civil Rights statutes identified herein:

- a. Violation of his constitutional rights under the Fourth, Eighth and Fourteenth Amendments to the United States Constitution to be free from unreasonable search and seizure of his person and summary, cruel and unusual punishment.
- b. Loss of his life;
- c. Conscious physical pain, suffering, and emotional trauma.

1 (2.) As a direct and proximate result of the actions of Defendants,
2 Plaintiffs suffered the following injuries, including but not limited
3 to:

- 4 1. Loss of love, aid, comfort and society due to the death of
- 5 Decedent JUAN H. CARRASCO, according to proof;
- 6 2. Loss of economic support of decedent, according to proof,
- 7 and
- 8 3. Funeral and burial expenses according to proof.

9 (b) Reasonable attorneys' fees and expenses of litigation, including
10 those fees permitted by 42 U.S.C. § 1988; Attorney fees Awards Act of 1976, and
11 42 USC section 1983.

12 (c) Costs of suit necessarily incurred herein;

13 (d) Prejudgment interest according to proof;

14 (e) Burial and funeral expenses;

15 (f) Such other and further relief as the Court deems just and proper.

16
17 Dated: August 29, 2008

Respectfully submitted,

18 LAW OFFICES OF FEDERICO C. SAYRE

19
20 By: 

21 Federico Castelan Sayre
22 Attorneys for Plaintiffs
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DEMAND FOR JURY

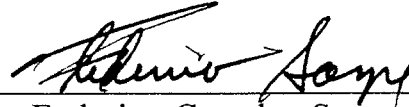
Plaintiffs hereby demand a trial by jury in this matter.

Dated: August 29, 2008

Respectfully submitted,

LAW OFFICES OF FEDERICO C. SAYRE

By:



Federico Castelan Sayre
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge James V. Selna and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV08- 981 JVS (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

United States District Court

Central District of California

ESTATE OF JUAN H. CARRASCO by and through its successor in interest and representative, TERESA TORRES; TERESA TORRES; LEILEEN CARRASCO, JUAN H. CARRASCO, JR., STARLEEN CARRASCO, minors by and through their Guardian Ad Litem, TERESA TORRES,

Plaintiffs

V.

THE CITY OF SANTA ANA; THE SANTA POLICE DEPARTMENT; UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS; and Does 1-10,

Defendants.

SUMMONS IN A CIVIL CASE

CASE NUMBER: SACV08-00981 JVS (RNBx)

TO: (Name and address of Defendant)

THE CITY OF SANTA ANA; THE SANTA POLICE DEPARTMENT; UNIDENTIFIED CITY OF SANTA ANA POLICE OFFICERS; and Does 1-10

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Federico Castelan Sayre, Esq., SBN: 067420
LAW OFFICES OF FEDERICO CASTELAN SAYRE
900 North Broadway, 4th Floor
Santa Ana, CA 92701
Telephone: (714) 550-9117
Facsimile: (714) 550-9125

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

SEP - 2 2008

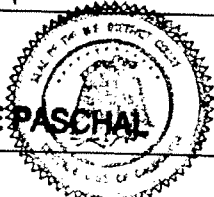
Clerk of Court

CLERK

DATE

ROLLS ROYCE PASCHAL

(By) DEPUTY CLERK



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